

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LAURA MCKNIGHT, TRISHA TURNER,)
ANDREW BAKER, RACHAEL FREEDMAN,)
KIMBERLY MCCRAY, and MARGO)
MORENO,)
)
Plaintiffs,)
) Civil No.
v.) H-09-3345
)
D. HOUSTON, INC., D/B/A)
TREASURES, A.H.D. HOUSTON, INC.,)
D/B/A CENTERFOLDS, D.N.W.)
HOUSTON, INC., D/B/A GOLD CUP,)
D. RANKIN, INC., D/B/A TROPHY)
CLUB, D WG FM, INC., D/B/A)
SPLENDOR, W.L. YORK, INC., D/B/A)
COVER GIRLS, and in their)
individual capacities, ALI)
DAVARI and HASSAN DAVARI,)
)
Defendants.)
_____)

DEPOSITION OF MARGO MORENO

Avondale, Arizona

May 14, 2010

Prepared by:

CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680

DEPOSITION OF MARGO MORENO - 5/14/2010

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<p>1 THE DEPOSITION OF MARGO MORENO 2 commenced at 11:46 a.m. on May 14, 2010, at the 3 Hilton Garden Inn, 11460 West Hilton Way, 4 Avondale, Arizona, before Cindy Mahoney, RPR, 5 RMR, Arizona Certified Court Reporter No. 50680. 6 7 APPEARANCES (by telephone): 8 For the Plaintiffs: 9 SHELLIST & LAZARZ, LLP 10 By: Martin A. Shellist, Esq. 11 3D/International Building 12 1900 West Loop South 13 Suite 1910 14 Houston, Texas 77027 15 713-362-2277 16 For the Defendants: 17 MONSHAUGEN & VAN HUFF, P.C. 18 By: Albert T. Van Huff, Esq. 19 1225 North Loop West 20 Suite 640 21 Houston, Texas 77008 22 713-880-2992 23 24 25</p>	<p>11:05:57 1 MARGO MORENO, 11:05:57 2 the witness herein, being first duly sworn, 11:05:57 3 was examined and testified as follows: 11:48:10 4 MR. VAN HUFF: First, Mr. Shellist and 11:48:11 5 I are going to stipulate that we're taking this 11:48:13 6 deposition in accordance with the Federal Rules 11:48:15 7 of Civil Procedure. 11:48:17 8 MR. SHELLIST: That's correct. So 11:48:20 9 stipulated. 11:48:20 10 EXAMINATION 11:48:22 11 Q BY MR. VAN HUFF: Ms. Moreno, would 11:48:24 12 you state your full name for the record, please? 11:48:26 13 A Margo Ina Moreno. 11:48:29 14 Q And what's your current address, 11:48:30 15 ma'am? 11:48:35 16 A My current address is 13015 West Santa 11:48:39 17 Fe Boulevard, Number 1120, Avondale, Arizona, 11:48:41 18 85392. 11:48:45 19 Q Okay. I got your Arizona driver's 11:48:52 20 license as Delta 06699313. Is that correct? 11:48:53 21 A Yes, sir. 11:48:54 22 Q And you're currently employed as a 11:48:55 23 cashier? 11:48:55 24 A Yes, sir. 11:48:58 25 Q Where are you employed?</p>
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<p>1 INDEX 2 WITNESS: PAGE 3 MARGO MORENO 4 Examination by Mr. Van Huff 4 5 Examination by Mr. Shellist 51 6 7 * * * 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>11:49:00 1 A At Full Circle Auto Wash. 11:49:03 2 Q Okay. So you're basically a cashier 11:49:05 3 at a car wash? 11:49:05 4 A Uh-huh. 11:49:06 5 Q All right. How long have you been 11:49:08 6 there in Arizona? 11:49:11 7 A Since April of '09. 11:49:12 8 Q Okay. Have you ever given a 11:49:13 9 deposition before? 11:49:15 10 A Yes, I have. 11:49:19 11 Q How many times? 11:49:20 12 A Once. 11:49:23 13 Q And what was that case about? 11:49:26 14 A It was in the '80s when I was 16 years 11:49:28 15 old in reference to a car accident. 11:49:31 16 Q Was that here in Harris County? 11:49:35 17 A No. No, it was in Nueces County. 11:49:38 18 Q Okay. Nueces County, that's Corpus 11:49:39 19 Christi; right? 11:49:39 20 A Yes. 11:49:43 21 Q And were you a plaintiff in that case 11:49:46 22 or a witness or a defendant? 11:49:50 23 A I was a plaintiff. 11:49:51 24 Q And that was the only deposition that 11:49:53 25 you've ever given?</p>

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11:49:54 1 A Yes, sir.
 11:50:00 2 Q And have you ever been a plaintiff or
 11:50:02 3 a defendant in any other lawsuit other than the
 11:50:06 4 one that we're here today on?
 11:50:08 5 A No, sir.
 11:50:14 6 Q Have you ever been arrested?
 11:50:15 7 A Yes.
 11:50:16 8 Q When was the first time you were
 11:50:19 9 arrested?
 11:50:22 10 A In -- in the '90s for a speeding
 11:50:25 11 ticket that had turned into a warrant.
 11:50:28 12 Q Okay. Anything other than that?
 11:50:32 13 A And one time I got ticketed for -- and
 11:50:37 14 taken in, and I was sentenced to a wet reckless.
 11:50:42 15 It was, I guess, in California and it was for
 11:50:45 16 driving recklessly with alcohol involved.
 11:50:49 17 Q Okay. And did you have to spend any
 11:50:50 18 time in jail for that or what happened?
 11:50:52 19 A Yes. Overnight. I got an attorney,
 11:50:55 20 and those were the final -- that was the final
 11:50:57 21 conclusion. What he got me was a wet reckless.
 11:51:00 22 Q Okay. Anything else?
 11:51:02 23 A No.
 11:51:02 24 Q All right. And as to the lawsuits,
 11:51:05 25 have you ever gone through a divorce proceeding?

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11:51:05 1 A No, sir.
 11:51:08 2 Q Okay. How about a bankruptcy?
 11:51:09 3 A No, sir.
 11:51:14 4 Q Okay. All right. Well, now that
 11:51:16 5 we've got some of those initial questions out of
 11:51:18 6 the way, we're just going to move right into the
 11:51:19 7 lawsuit. Okay?
 11:51:20 8 A Okay.
 11:51:23 9 Q Now, I'm looking at some interrogatory
 11:51:28 10 answers here. And it says here that you were
 11:51:35 11 employed as a waitress at Treasures from
 11:51:39 12 approximately June 5 -- excuse me, June of 2005
 11:51:43 13 through March of 2009. Is that correct?
 11:51:48 14 A No. It is June of 2004 to March of
 11:51:49 15 2009.
 11:51:55 16 Q And I'm just going to assume that that
 11:51:58 17 was a mistake on your lawyer's part. Okay?
 11:51:59 18 A Okay.
 11:52:01 19 Q As far as the interrogatory answer
 11:52:02 20 goes.
 11:52:06 21 Okay. It says here that you were paid
 11:52:09 22 2.13 an hour plus tips; is that correct?
 11:52:10 23 A Yes.
 11:52:12 24 Q Were you ever paid in any other manner
 11:52:16 25 other than that 2.13 per hour plus tips?

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11:52:16 1 A No.
 11:52:18 2 Q At least while you were employed at
 11:52:19 3 Treasures?
 11:52:20 4 A No, sir.
 11:52:23 5 Q Now, I gather from your interrogatory
 11:52:27 6 answer that you have never worked at
 11:52:28 7 Centerfolds; is that correct?
 11:52:28 8 A Correct.
 11:52:30 9 Q That you've never worked at Gold Cup;
 11:52:31 10 is that correct?
 11:52:32 11 A Correct.
 11:52:34 12 Q You've never worked at Trophy Club,
 11:52:37 13 Splendor, or Cover Girls; correct?
 11:52:41 14 A I did work at Trophy in -- I'm not
 11:52:43 15 exactly sure when. It could have been the end
 11:52:45 16 of 2003 and the beginning of 2004, in between
 11:52:48 17 there.
 11:52:52 18 Q For how long?
 11:52:55 19 A Just a few months.
 11:52:58 20 Q Is that as a waitress?
 11:52:58 21 A Yes.
 11:53:00 22 Q That would have been over five years
 11:53:02 23 ago; right?
 11:53:02 24 A Yes.
 11:53:10 25 Q Okay. You never worked at Splendor?

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11:53:10 1 A No.
 11:53:11 2 Q Correct?
 11:53:11 3 A Correct.
 11:53:13 4 Q You never worked at Cover Girls;
 11:53:14 5 correct?
 11:53:15 6 A Correct.
 11:53:20 7 Q So you worked at Treasures from June
 11:53:23 8 2004 to March of 2009, approximately, as a
 11:53:24 9 cocktail waitress?
 11:53:24 10 A Those were --
 11:53:27 11 Q And you also worked for a brief period
 11:53:32 12 at Trophy Club back in 2003 or 2004 for a few
 11:53:32 13 months?
 11:53:33 14 A Correct.
 11:53:33 15 Q Correct?
 11:53:33 16 A Yes.
 11:53:36 17 Q Other than that, you didn't work for
 11:53:37 18 any of the other defendants; correct?
 11:53:40 19 A Correct.
 11:53:48 20 Q Now, in your lawsuit you've alleged
 11:53:52 21 that Treasures treated you improperly with
 11:53:54 22 regard to the way that you were compensated for
 11:53:56 23 your work. You understand that?
 11:53:59 24 A Could you further explain?
 11:54:00 25 Q You filed a lawsuit against Treasures;

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<p>11:54:01 1 correct?</p> <p>11:54:02 2 A Right.</p> <p>11:54:05 3 Q And why have you sued Treasures?</p> <p>11:54:07 4 A I'm not understanding. That wasn't</p> <p>11:54:09 5 part of your question. Can you repeat the</p> <p>11:54:10 6 beginning again?</p> <p>11:54:12 7 Q I'm asking a different question now.</p> <p>11:54:15 8 Why did you sue Treasures?</p> <p>11:54:19 9 A For illegal -- the way we were paid,</p> <p>11:54:25 10 for tip out, just practices that were unfair and</p> <p>11:54:26 11 not right.</p> <p>11:54:35 12 Q Okay. So what exactly -- is it fair</p> <p>11:54:36 13 to say there are several practices that you</p> <p>11:54:39 14 think were unfair and not right or unlawful?</p> <p>11:54:40 15 A Correct.</p> <p>11:54:42 16 Q If we were going to look at them one</p> <p>11:54:45 17 at a time, what is your first complaint?</p> <p>11:54:49 18 A The 2.13 an hour, the management tip</p> <p>11:54:49 19 out --</p> <p>11:54:52 20 Q Okay. Well, hold on. We need to go</p> <p>11:54:53 21 through them one at a time. Okay?</p> <p>11:54:53 22 A Okay.</p> <p>11:54:57 23 Q So the first one is 2.13 per hour.</p> <p>11:54:59 24 You have an issue with that. The second one is</p> <p>11:55:02 25 you have an issue with manager tip out. Okay.</p>	<p>11:56:12 1 Q What was the range?</p> <p>11:56:15 2 A The range could be I walk out of there</p> <p>11:56:18 3 with zero dollars ranging anywhere to sometimes</p> <p>11:56:25 4 over a thousand dollars.</p> <p>11:56:28 5 Q Okay. And how many shifts would you</p> <p>11:56:31 6 work per week?</p> <p>11:56:35 7 A Anywhere from -- it could be from two</p> <p>11:56:40 8 to every day, seven days a week.</p> <p>11:56:49 9 Q Did you like your job at Treasures?</p> <p>11:56:50 10 A Could you be more specific?</p> <p>11:56:52 11 Q Just generally speaking, were you</p> <p>11:56:56 12 happy working there or did you dislike it?</p> <p>11:57:00 13 A It was a job that I held that I</p> <p>11:57:03 14 worked. I can't say I liked it or disliked it.</p> <p>11:57:05 15 Q Just a job?</p> <p>11:57:05 16 A Correct.</p> <p>11:57:09 17 Q Okay. Do you know Laura McKnight?</p> <p>11:57:10 18 A Yes, I do.</p> <p>11:57:15 19 Q And did you originally hear about this</p> <p>11:57:16 20 lawsuit through Laura?</p> <p>11:57:18 21 A Yes, I did.</p> <p>11:57:23 22 Q And how long ago was that?</p> <p>11:57:29 23 A That was -- I would say that was a</p> <p>11:57:30 24 year ago.</p> <p>11:57:32 25 Q All right. Did she call you on the</p>
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<p>11:55:05 1 Now, you have a third one.</p> <p>11:55:09 2 A No.</p> <p>11:55:11 3 Q Okay. What is it about the 2.13 per</p> <p>11:55:14 4 hour that you think was unlawful?</p> <p>11:55:17 5 A As far as when I did my research on</p> <p>11:55:22 6 the FSLA that that wasn't proper, and also being</p> <p>11:55:25 7 just further informed.</p> <p>11:55:28 8 Q Okay. That the 2.13 an hour wasn't</p> <p>11:55:29 9 enough money?</p> <p>11:55:31 10 A It's not minimum wage.</p> <p>11:55:35 11 Q Okay. Did you receive tips in</p> <p>11:55:38 12 addition to the 2.13 an hour?</p> <p>11:55:38 13 A Yes, sir.</p> <p>11:55:40 14 Q Now, was the amount of tips that you</p> <p>11:55:46 15 collected, if you add that onto the 2.13 an</p> <p>11:55:48 16 hour, would that have put you above minimum</p> <p>11:55:49 17 wage?</p> <p>11:55:52 18 A It would depend on the day. I can't</p> <p>11:55:53 19 be specific on that.</p> <p>11:55:56 20 Q How many hours would you work per</p> <p>11:56:01 21 shift, approximately?</p> <p>11:56:02 22 A Eight or more.</p> <p>11:56:06 23 Q All right. And how much money in tips</p> <p>11:56:08 24 would you usually make during a shift?</p> <p>11:56:09 25 A It would depend.</p>	<p>11:57:32 1 telephone?</p> <p>11:57:32 2 A She did.</p> <p>11:57:36 3 Q What did she say to you exactly?</p> <p>11:57:39 4 A In reference to this lawsuit that she</p> <p>11:57:43 5 was pursuing and if I would like to join in.</p> <p>11:57:45 6 Q Okay. And then you said sure and</p> <p>11:57:47 7 asked her for the number of the lawyer</p> <p>11:57:48 8 basically?</p> <p>11:57:50 9 A Proceeded to ask a few more questions</p> <p>11:57:55 10 and agreed with where she was going with it. I</p> <p>11:57:57 11 had never looked into it. Then I did a little</p> <p>11:57:58 12 research. And yes, then I contacted the</p> <p>11:57:59 13 attorney.</p> <p>11:58:02 14 Q Okay. Was that the last time you've</p> <p>11:58:05 15 spoken with Ms. McKnight?</p> <p>11:58:09 16 A I spoke with her a few other times.</p> <p>11:58:11 17 Nothing in reference pretty much to the lawsuit,</p> <p>11:58:16 18 in reference to just chitchatting, pretty much.</p> <p>11:58:19 19 Q Are you Facebook friends?</p> <p>11:58:21 20 A Yeah. I don't speak to her, though,</p> <p>11:58:24 21 on Facebook really. I barely get on Facebook.</p> <p>11:58:26 22 Q Have you ever communicated with her on</p> <p>11:58:28 23 Facebook?</p> <p>11:58:29 24 A Maybe once or twice.</p> <p>11:58:34 25 Q Do you recall what it was about?</p>

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<p>11:58:35 1 A I can't recall at this moment.</p> <p>11:58:41 2 Q Okay. Another person I need to ask</p> <p>11:58:44 3 you about is Trisha Turner. She's another</p> <p>11:58:45 4 plaintiff in this case.</p> <p>11:58:46 5 Do you know Ms. Turner?</p> <p>11:58:47 6 A Yes, I do.</p> <p>11:58:50 7 Q Have Ms. Turner and you ever talked</p> <p>11:58:52 8 about this lawsuit?</p> <p>11:58:53 9 A No, sir.</p> <p>11:58:56 10 Q All right. How about Mr. Baker?</p> <p>11:58:57 11 A No.</p> <p>11:59:00 12 Q And by the way, in asking this</p> <p>11:59:02 13 question, I'm not trying to inquire into</p> <p>11:59:06 14 anything that you talked about to your lawyer.</p> <p>11:59:07 15 I just wanted to mention that because I don't</p> <p>11:59:10 16 want you to accidentally start talking to me</p> <p>11:59:12 17 about things that you and your lawyer talked</p> <p>11:59:12 18 about. Okay?</p> <p>11:59:13 19 A Okay.</p> <p>11:59:16 20 Q What about Ms. Freedman, Rachael</p> <p>11:59:17 21 Freedman?</p> <p>11:59:17 22 A No, sir.</p> <p>11:59:19 23 Q When was the last time -- have you</p> <p>11:59:22 24 ever spoken to her?</p> <p>11:59:25 25 A No. And she worked at Treasures.</p>	<p>12:00:39 1 specific, there was two or three. They all</p> <p>12:00:42 2 spoke, so they basically kept mental notes of</p> <p>12:00:44 3 the amount of our tabs.</p> <p>12:00:46 4 So towards the end of our night if you</p> <p>12:00:49 5 totaled up, we went to them with 10 tabs at a</p> <p>12:00:53 6 total of \$100 in tips each, we were required to</p> <p>12:00:57 7 tip out to them 10 percent.</p> <p>12:00:59 8 Q Okay. Did you ever complain about</p> <p>12:01:02 9 this to David Davari or George Davari?</p> <p>12:01:03 10 A No, sir.</p> <p>12:01:05 11 Q Do you acknowledge that you signed a</p> <p>12:01:08 12 form when you were first hired by Treasures that</p> <p>12:01:11 13 said tipping the managers was purely</p> <p>12:01:12 14 voluntarily?</p> <p>12:01:15 15 A That I do not recall; however --</p> <p>12:01:17 16 Q If they had a form in your personnel</p> <p>12:01:20 17 file with your signature on it, would you</p> <p>12:01:21 18 dispute that you signed that form?</p> <p>12:01:23 19 A No, I do not dispute that I signed it.</p> <p>12:01:27 20 If I -- it sounds like something that could be</p> <p>12:01:29 21 that was in there that I signed. I'm not</p> <p>12:01:32 22 disputing that whatsoever. However, the paper</p> <p>12:01:35 23 is not what was consistent with the practices at</p> <p>12:01:36 24 Treasures.</p> <p>12:01:39 25 Q Okay. Fair enough.</p>
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<p>11:59:29 1 Q So you've never spoke with her about</p> <p>11:59:29 2 this lawsuit?</p> <p>11:59:30 3 A No, sir.</p> <p>11:59:32 4 Q What about Kimberly McCray?</p> <p>11:59:33 5 A No.</p> <p>11:59:38 6 Q The only one left is you, so I don't</p> <p>11:59:40 7 need to ask you that question.</p> <p>11:59:43 8 That was me trying to be funny.</p> <p>11:59:47 9 A Oh. I chuckled.</p> <p>11:59:50 10 Q So all right. So you think that the</p> <p>11:59:52 11 2.13 an hour was inappropriate.</p> <p>11:59:56 12 You also talked about manager tip outs</p> <p>11:59:57 13 that you weren't happy with?</p> <p>11:59:57 14 A Correct.</p> <p>12:00:01 15 Q Okay. Now, just assume that I know</p> <p>12:00:04 16 nothing about the details with regard to your</p> <p>12:00:08 17 issues with manager tip out, and please tell me</p> <p>12:00:11 18 all about it.</p> <p>12:00:13 19 A We were required to tip out. Mainly</p> <p>12:00:17 20 what we made, the majority of our tips were on</p> <p>12:00:20 21 credit card. They signed off on our credit card</p> <p>12:00:25 22 tabs after a tab was closed, so they were fully</p> <p>12:00:27 23 aware of the amount of our tips.</p> <p>12:00:30 24 There was always more than one manager</p> <p>12:00:35 25 on the floor on a nightly shift. To be</p>	<p>12:01:40 1 Are there any other employment</p> <p>12:01:42 2 practices at Treasures that you're complaining</p> <p>12:01:46 3 about in connection with your lawsuit?</p> <p>12:01:48 4 A The taking out of the 5 percent of our</p> <p>12:01:50 5 credit card tips as well.</p> <p>12:01:52 6 Q Okay. And by the way, do you have any</p> <p>12:01:54 7 papers in front of you right now that you're</p> <p>12:01:55 8 referring to?</p> <p>12:01:55 9 A No, sir.</p> <p>12:01:59 10 Q Okay. What is it about the 5 percent</p> <p>12:02:01 11 of your credit card tips that you think was</p> <p>12:02:03 12 unlawful?</p> <p>12:02:06 13 A That was money we earned. We were</p> <p>12:02:10 14 never spoken to when we began employment -- or</p> <p>12:02:13 15 when I began employment of them taking out any</p> <p>12:02:15 16 sort of money. It was, again, a practice that</p> <p>12:02:20 17 was just pretty much done without any consent.</p> <p>12:02:22 18 I don't remember signing a form on that either.</p> <p>12:02:27 19 Q Okay. So it's your position that --</p> <p>12:02:29 20 well, what is it about the fact they were taking</p> <p>12:02:35 21 out 5 percent of your credit card tips that you</p> <p>12:02:37 22 specific -- other than the fact that they didn't</p> <p>12:02:38 23 tell you about it when you were hired and you</p> <p>12:02:42 24 didn't sign a form, what is it about them taking</p> <p>12:02:45 25 out 5 percent that you think is unlawful?</p>

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<p>12:02:47 1 A That that was money that was paid to</p> <p>12:02:49 2 us, not to the club.</p> <p>12:02:51 3 Q Okay. So basically it's your position</p> <p>12:02:54 4 that the club didn't have any right to take 5</p> <p>12:02:55 5 percent out of your credit card bill?</p> <p>12:02:56 6 A Correct.</p> <p>12:02:58 7 Q Okay. Are there any other employment</p> <p>12:03:01 8 practices that you're complaining about in your</p> <p>12:03:03 9 lawsuit or that you have personal knowledge of</p> <p>12:03:05 10 because it happened to you, not because someone</p> <p>12:03:08 11 else told you about it?</p> <p>12:03:11 12 A Paying back credit card tabs that were</p> <p>12:03:18 13 disputed, money that they said that we owed them</p> <p>12:03:21 14 for if a tab was disputed that we were shown no</p> <p>12:03:24 15 proof of, we were just told you owe this money</p> <p>12:03:27 16 and we'd have to give it back.</p> <p>12:03:29 17 Q Okay. So you're talking about credit</p> <p>12:03:31 18 card chargebacks?</p> <p>12:03:34 19 A Chargebacks were really -- that word</p> <p>12:03:38 20 was never thrown around. The word was always</p> <p>12:03:40 21 tab disputes. You had a tab dispute. This is</p> <p>12:03:43 22 the amount of the tab. This was your tip. You</p> <p>12:03:46 23 had to pay your tip back because the tab was</p> <p>12:03:46 24 disputed.</p> <p>12:03:49 25 Q Okay. Now, for the purposes of our</p>	<p>12:05:06 1 Sometimes we were. Sometimes we were told they</p> <p>12:05:10 2 ran out of money. Sometimes we were not because</p> <p>12:05:15 3 of any instance that the manager may have</p> <p>12:05:18 4 thought -- or thought upon it himself that he</p> <p>12:05:23 5 was going to hold this tab for whatever reason</p> <p>12:05:26 6 he felt. So we wouldn't get paid out on that or</p> <p>12:05:28 7 if they ran out of money.</p> <p>12:05:33 8 Q Okay. And, Ms. Moreno, in answering</p> <p>12:05:36 9 that question you were using the word "we."</p> <p>12:05:39 10 A I meant we as waitresses as a whole,</p> <p>12:05:42 11 not we specifically anyone. I'll change it to</p> <p>12:05:46 12 I. But this was a practice with the entire wait</p> <p>12:05:46 13 staff.</p> <p>12:05:48 14 Q Okay. I understand. I want to make</p> <p>12:05:51 15 sure that as I'm asking you these questions that</p> <p>12:05:53 16 you understand that I'm asking you specifically</p> <p>12:05:56 17 about things that happened to you and not to</p> <p>12:05:56 18 other people. Okay?</p> <p>12:05:58 19 A Correct. And I will say I.</p> <p>12:05:59 20 Q I understand that your position is</p> <p>12:06:02 21 that it was the policy -- or that it was applied</p> <p>12:06:06 22 equally to everyone else. I acknowledge that's</p> <p>12:06:07 23 your position.</p> <p>12:06:10 24 So I'm not trying to trick you or</p> <p>12:06:12 25 anything into saying otherwise, but I just want</p>
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<p>12:03:52 1 conversation right now, when I say -- when we</p> <p>12:03:55 2 refer to credit card chargebacks, that's going</p> <p>12:04:00 3 to mean and include disputed tabs. Okay?</p> <p>12:04:00 4 A Okay.</p> <p>12:04:03 5 Q Because in your lawsuit -- the lawsuit</p> <p>12:04:06 6 talks about a couple different things. It talks</p> <p>12:04:10 7 about credit card chargebacks, and it also talks</p> <p>12:04:14 8 about walked tabs. And those are the two</p> <p>12:04:16 9 categories that I need to talk to you about,</p> <p>12:04:18 10 things that people have complained about in this</p> <p>12:04:18 11 lawsuit.</p> <p>12:04:20 12 A I'm sorry. You said chargebacks and</p> <p>12:04:24 13 what was the other word you used?</p> <p>12:04:31 14 Q Walked tabs?</p> <p>12:04:31 15 A Oh, walked. Okay.</p> <p>12:04:32 16 Q So if a guy walked out of the club</p> <p>12:04:33 17 before he could pay his tab.</p> <p>12:04:34 18 A Correct. Okay.</p> <p>12:04:40 19 Q So you said a moment ago we were</p> <p>12:04:42 20 talking about credit card chargebacks. Now let</p> <p>12:04:45 21 me ask you this.</p> <p>12:04:49 22 Typically during -- at the end of the</p> <p>12:04:55 23 shift, were you paid all of the tips that you</p> <p>12:05:01 24 earned that shift in cash at that time?</p> <p>12:05:03 25 A That would depend on the evening.</p>	<p>12:06:15 1 to know about the things that happened to you</p> <p>12:06:16 2 personally. Okay?</p> <p>12:06:18 3 A Correct. Every statement that I made</p> <p>12:06:21 4 with we, I can change it to I. Because I stand</p> <p>12:06:23 5 behind all that because I was --</p> <p>12:06:25 6 Q Ms. Moreno, that's fine. We don't</p> <p>12:06:26 7 have to go through it all.</p> <p>12:06:27 8 A Okay.</p> <p>12:06:33 9 Q So you say sometimes the club would</p> <p>12:06:34 10 run out of money. Do you mean that sometimes</p> <p>12:06:36 11 the club would run out of cash on hand because</p> <p>12:06:40 12 it had to pay out a high level or a high amount</p> <p>12:06:42 13 of tips on all the credit card tabs that were</p> <p>12:06:44 14 run in a particular night?</p> <p>12:06:45 15 A Correct. That is what --</p> <p>12:06:48 16 Q When that happened, were you given a</p> <p>12:06:50 17 voucher that you would come and redeem the</p> <p>12:06:51 18 following day?</p> <p>12:06:55 19 A There was a form we filled out stating</p> <p>12:06:59 20 the tab -- excuse me. There was a form I filled</p> <p>12:07:04 21 out with the tab number, the bartender who was</p> <p>12:07:09 22 running the tab, my name, the managers on duty,</p> <p>12:07:13 23 all the bartenders on duty as well, and the</p> <p>12:07:15 24 amount of the tab.</p> <p>12:07:21 25 Q Okay. Now, during the period of</p>

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<p>12:07:25 1 October of 2006 until the end of your employment</p> <p>12:07:32 2 in March of 2009, how many times did you have to</p> <p>12:07:35 3 go through that procedure?</p> <p>12:07:38 4 A I cannot be specific on that number,</p> <p>12:07:41 5 but I will say it's definitely more than 10</p> <p>12:07:44 6 times, if not 20 or more.</p> <p>12:07:47 7 Q Okay. Is it safe to say that it was</p> <p>12:07:50 8 less than 30 times?</p> <p>12:07:52 9 A I couldn't give you a specific number,</p> <p>12:07:54 10 but there were many times.</p> <p>12:08:03 11 Q Okay. Would the frequency be about</p> <p>12:08:06 12 once a month or so?</p> <p>12:08:08 13 A I couldn't be specific on that. It</p> <p>12:08:11 14 would depend on the time of year. It would</p> <p>12:08:14 15 depend on the week. It would depend on</p> <p>12:08:18 16 conventions in town, if we were busy or not</p> <p>12:08:19 17 busy.</p> <p>12:08:22 18 Q Okay. Are you claiming that you</p> <p>12:08:25 19 suffered any economic damages as a result of</p> <p>12:08:26 20 that?</p> <p>12:08:28 21 A Possibly at times I could have.</p> <p>12:08:30 22 Q How?</p> <p>12:08:32 23 A If I was going into work knowing I was</p> <p>12:08:37 24 going in to make my earned tips and walk out</p> <p>12:08:41 25 with zero dollars; if I was going into work that</p>	<p>12:09:57 1 45 waitresses a shift.</p> <p>12:09:59 2 Q So you're saying on some nights you'd</p> <p>12:10:01 3 go in and you wouldn't even serve anybody?</p> <p>12:10:02 4 A Correct.</p> <p>12:10:07 5 Q How often would that happen?</p> <p>12:10:09 6 A Not very often, but it has happened.</p> <p>12:10:11 7 Q I mean, would you say that it only</p> <p>12:10:15 8 happened a few times? Honestly?</p> <p>12:10:20 9 A What time specific range are you --</p> <p>12:10:22 10 Q How many times would it happen to you</p> <p>12:10:26 11 per year that you would go into work and work an</p> <p>12:10:28 12 entire shift and not serve a single customer?</p> <p>12:10:31 13 A A handful of times.</p> <p>12:10:32 14 Q Per year?</p> <p>12:10:32 15 A Yes.</p> <p>12:10:36 16 Q Now, if it was that slow or there were</p> <p>12:10:38 17 that many waitresses, would the club send you</p> <p>12:10:39 18 home?</p> <p>12:10:42 19 A No, they wouldn't send us home. We</p> <p>12:10:48 20 had the -- or I had the -- the opportunity we</p> <p>12:10:50 21 could ask to go home. That's not necessarily</p> <p>12:10:54 22 saying that they would always allow me to go</p> <p>12:11:01 23 home because to be specific, some of the</p> <p>12:11:04 24 managers specifically said there's something out</p> <p>12:11:06 25 there wanting us to stay -- wanting me to stay</p>
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<p>12:08:44 1 evening to make money per se to pay a bill that</p> <p>12:08:46 2 was due the next day, yes, that would have</p> <p>12:08:48 3 affected me.</p> <p>12:08:50 4 Q Okay. But you're not claiming that</p> <p>12:08:54 5 you were never paid on those vouchers, are you?</p> <p>12:08:56 6 A No. I was paid on all of them.</p> <p>12:09:00 7 Q Okay. And how soon after the night</p> <p>12:09:04 8 that you worked were you paid?</p> <p>12:09:05 9 A That would depend. Sometimes I could</p> <p>12:09:10 10 try to go in on the beginning of my shift and</p> <p>12:09:14 11 try to get that money back. Sometimes I had to</p> <p>12:09:16 12 wait some time during the shift or sometimes it</p> <p>12:09:18 13 wouldn't be until that next evening when I was</p> <p>12:09:22 14 getting paid out on my tips from that evening.</p> <p>12:09:24 15 Q Did you ever complain to George or</p> <p>12:09:26 16 David Davari about that?</p> <p>12:09:27 17 A No, sir.</p> <p>12:09:30 18 Q Okay. And the nights when you were</p> <p>12:09:35 19 not paid any tips and given a voucher, is that</p> <p>12:09:36 20 why you've stated before that sometimes you</p> <p>12:09:40 21 would receive zero tips on a shift?</p> <p>12:09:42 22 A No, sir. Sometimes going in, you</p> <p>12:09:46 23 would -- I wouldn't make -- I might not have had</p> <p>12:09:51 24 any tips -- or credit card tabs per se or make</p> <p>12:09:55 25 any tips. There was over, on some nights, 40 to</p>	<p>12:11:10 1 because if I made money, they made money because</p> <p>12:11:13 2 we were required -- I was required to tip out.</p> <p>12:11:20 3 Q Okay. Other than the issue with the</p> <p>12:11:26 4 vouchers that we just talked about?</p> <p>12:11:26 5 A Yes.</p> <p>12:11:26 6 Q When I say voucher, I'm talking about</p> <p>12:11:28 7 that form that you would have to fill out if the</p> <p>12:11:30 8 club ran out of cash?</p> <p>12:11:31 9 A Correct.</p> <p>12:11:34 10 Q Other than that, setting aside the 5</p> <p>12:11:37 11 percent credit card -- the 5 percent that was</p> <p>12:11:42 12 taken out of your credit card tips, is it fair</p> <p>12:11:46 13 to say that you would routinely receive all of</p> <p>12:11:49 14 your cash tips at the end of your shift for that</p> <p>12:11:49 15 shift?</p> <p>12:11:53 16 A Yes.</p> <p>12:12:00 17 Q All right. Now, you mentioned before</p> <p>12:12:07 18 something about disputed tabs, credit card -- or</p> <p>12:12:11 19 as I refer to them, credit card chargebacks;</p> <p>12:12:12 20 correct?</p> <p>12:12:12 21 A Correct.</p> <p>12:12:15 22 Q Okay. So those were basically just</p> <p>12:12:17 23 credit card tabs that, for whatever reason, the</p> <p>12:12:19 24 club was not able to liquidate -- or that it was</p> <p>12:12:22 25 not able to collect later on? Is that your</p>

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<p>12:12:25 1 understanding of what that means?</p> <p>12:12:27 2 A My understanding was it was a disputed</p> <p>12:12:34 3 tab. We were either told about it or shown a --</p> <p>12:12:37 4 some sort of spreadsheet with our name, date,</p> <p>12:12:39 5 pretty much the entire information of the tab,</p> <p>12:12:42 6 our tip amount and what was required to be paid</p> <p>12:12:42 7 back.</p> <p>12:12:47 8 Q Okay. And how often would this</p> <p>12:12:49 9 happen?</p> <p>12:12:54 10 A There was -- there was times when it</p> <p>12:12:59 11 was very high. They were running -- it was</p> <p>12:13:02 12 something going on that there was many of them.</p> <p>12:13:06 13 Sometimes it would stop for a while and start up</p> <p>12:13:08 14 again.</p> <p>12:13:11 15 Q When there was a disputed tab, what</p> <p>12:13:13 16 are you claiming would happen to you?</p> <p>12:13:16 17 A We were required to pay back the money</p> <p>12:13:16 18 we earned from our tip to David and show no</p> <p>12:13:27 19 proof. We were basically told this tab was</p> <p>12:13:29 20 disputed, this is the amount of the tip you owe,</p> <p>12:13:31 21 and you need to pay it back.</p> <p>12:13:32 22 Q Okay. Do you have any documentary</p> <p>12:13:35 23 evidence in support of that?</p> <p>12:13:37 24 A No. Every time I asked for any sort</p> <p>12:13:40 25 of proof of payment, I was never given any.</p>	<p>12:15:07 1 Q Okay. Well, when we go to trial on</p> <p>12:15:09 2 this case, how much money are you going to be</p> <p>12:15:11 3 asking the jury to award you in connection with</p> <p>12:15:12 4 that?</p> <p>12:15:14 5 A Right now I cannot be specific on that</p> <p>12:15:15 6 amount.</p> <p>12:15:18 7 Q I'm not trying to be difficult with</p> <p>12:15:23 8 you here, Ms. Moreno. But it's fairly important</p> <p>12:15:25 9 that we at least get some sort of range</p> <p>12:15:26 10 established as far as what damages you're</p> <p>12:15:29 11 seeking in this lawsuit because this is the only</p> <p>12:15:31 12 time I'm going to be able to ask you questions</p> <p>12:15:32 13 about it. Okay?</p> <p>12:15:33 14 A Okay. But I specifically cannot give</p> <p>12:15:36 15 you an amount at this time.</p> <p>12:15:39 16 Q Okay. So at this time you do not know</p> <p>12:15:42 17 how much money you're claiming in damages for</p> <p>12:15:44 18 disputed tabs?</p> <p>12:15:46 19 A No, sir.</p> <p>12:15:47 20 Q Correct?</p> <p>12:15:47 21 A Correct.</p> <p>12:15:57 22 Q Ms. Moreno, by the way, I don't always</p> <p>12:15:59 23 use that term correct in my day-to-day</p> <p>12:16:03 24 vernacular, but sometimes it's difficult for the</p> <p>12:16:06 25 written record when people say yes or no to a</p>
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<p>12:13:47 1 Q Yet you continued to work there?</p> <p>12:13:48 2 A Yes.</p> <p>12:13:52 3 Q Now, what was the range of money that</p> <p>12:13:55 4 you would have to pay on those disputed tabs as</p> <p>12:13:59 5 far as the tip amount that you claim you were</p> <p>12:14:02 6 required to pay to Mr. Davari in cash?</p> <p>12:14:03 7 A I'm sorry. Can you repeat that</p> <p>12:14:03 8 question?</p> <p>12:14:05 9 Q Yeah. What was the range of -- what</p> <p>12:14:11 10 was the range of the amount of the tips that you</p> <p>12:14:15 11 claim you were required to pay to Mr. Davari</p> <p>12:14:18 12 when a tab was disputed?</p> <p>12:14:21 13 For example, was it, you know, \$5 to</p> <p>12:14:25 14 \$50, you know, \$5 to a thousand dollars, the</p> <p>12:14:28 15 range of the tips on the tabs?</p> <p>12:14:32 16 A My lowest range that I recall is \$169</p> <p>12:14:35 17 on up.</p> <p>12:14:38 18 Q On up to what?</p> <p>12:14:52 19 A Anywhere from five to \$800.</p> <p>12:14:54 20 Q During your employment with Treasures,</p> <p>12:14:56 21 approximately how much money are you claiming</p> <p>12:14:58 22 that you had to pay to Mr. Davari in connection</p> <p>12:15:00 23 with these disputed tabs?</p> <p>12:15:03 24 A That, I do not recall. I cannot be</p> <p>12:15:05 25 specific on that amount.</p>	<p>12:16:08 1 question and it actually means the opposite of</p> <p>12:16:09 2 what they meant it to mean. I'm just mentioning</p> <p>12:16:09 3 that to you so you don't think I'm trying to --</p> <p>12:16:45 4 I'm going to move on to walked tabs.</p> <p>12:16:46 5 Okay?</p> <p>12:16:47 6 A Okay.</p> <p>12:16:51 7 Q So are you claiming in your lawsuit</p> <p>12:16:54 8 that you were affected by walked tabs?</p> <p>12:16:54 9 A Yes.</p> <p>12:16:56 10 Q Okay. And how were you affected by</p> <p>12:17:00 11 walked tabs?</p> <p>12:17:02 12 A If at any point on any given night you</p> <p>12:17:05 13 couldn't find -- I -- if I could not find the</p> <p>12:17:08 14 owner of the credit card and the tab sheet that</p> <p>12:17:12 15 I was in charge of, if he was nowhere in the</p> <p>12:17:13 16 club, I was in charge of paying those drinks</p> <p>12:17:18 17 back.</p> <p>12:17:23 18 Q How often would that happen?</p> <p>12:17:27 19 A I can't be specific. It happened.</p> <p>12:17:28 20 Sometimes they would just forget. Sometimes</p> <p>12:17:30 21 they would walk out. Sometimes it would be</p> <p>12:17:32 22 intentional.</p> <p>12:17:35 23 Q Okay. But you said you're not sure</p> <p>12:17:37 24 how often it happened?</p> <p>12:17:40 25 A I can't give you a specific number of</p>